

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRACEY WHITE, et al.

Plaintiffs

v.

THOMAS JACKSON, et al.

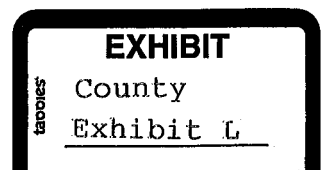
Defendants.

Cause No. 14-cv-01490 - HEA

AFFIDAVIT OF DETECTIVE NICHOLAS PAYNE

Comes now Nicholas Payne, on his personal knowledge, on his oath, states as follows:

1. I am a St. Louis County police detective.
2. On August 13th, 2014 I was on duty with other members from the Bureau of Drug Enforcement, street team. I, along with other members of the Street Team, was wearing blue jeans and T-Shirt, which is how we normally dress for assignments.
3. After reporting for duty on August 13th at the command center, we were given instructions that we would assist with crowd control on a skirmish line if needed. We would also act as an arrest team, if an arrest was deemed to be appropriate. The focus was not to make an arrest but to do crowd control for the safety of people and property.
4. At approximately 9 p.m. we were called to assist on a skirmish line in the area of 9400 West Florissant where a large crowd had formed and had become unruly.
5. When I arrived, I was a witness to objects being thrown at the police. Also I was a witness to numerous announcements made by the St. Louis County Tactical Operations Unit over the loud speakers instructing the crowd to disperse.



6. There was a bottle that had a lit cloth on it that I thought to be a Molotov cocktail, thrown onto a nearby roof of a car wash. Afterwards, the Tactical Operations stepped up its efforts to disperse the crowd by continuing the announcements to disperse, and also by deploying smoke and tear gas.
7. After the smoke and tear gas was deployed, the crowd began dispersing northbound on West Florissant. The skirmish line also moved northbound. No efforts were made to arrest anyone; the hope was to disperse the crowd.
8. It was very dark out. In fact as I remember this incident, with the smoke and tear gas, it seemed to me to be very, very dark.
9. While we moved northbound on West Florissant, a man, later identified as Dwayne Matthews, emerged from the smoke heading southbound coming towards the police skirmish line.
10. I could hear Detective Joe Patterson yelling at Matthews who was heading southbound to stop and turn around. I was wearing a gas mask but through the gas mask I was also yelling at the man to stop.
11. Matthews kept coming. Matthews did have his hands up, but to me, having his hands up when he kept coming toward the police after being told to stop, was still a threat.
12. Det. Derik Jackson that night had been issued the less-lethal bean bag shotgun.
13. After several commands from me, and from Detective Patterson, and from other officers telling Matthews to stop, I heard Det. Jackson yell out "Less lethal, less lethal, less lethal," after which Det. Jackson fired the less-lethal shotgun.

14. I fully support the firing of the less lethal rounds in that situation. I considered it to be appropriate.
15. After the less-lethal bean bag rounds were fired, Matthews stumbled and fell into a culvert that had water in it.
16. Detective Vinson went to get Matthews out of the culvert; Detective Bates helped removing both Matthews and Vinson from the culvert to the grassy area.
17. After Matthews was on the grassy area next to the sidewalk, I observed that he was still fighting and moving while officers were attempting to handcuff him.
18. I along with others yelled at Matthews to stop resisting, that he was under arrest, but he kept moving and fighting. Det. Patterson advised Matthews that if he continued to resist that he would be pepper sprayed. Matthews continued to disregard the commands to comply, after which Det. Patterson deployed one spray of Department Issued OC spray, after which Matthews stopped resisting, was handcuffed, and as soon as he was handcuffed and searched, he was sat up.
19. I did not strike Matthews. I did not see anyone else strike Matthews.
20. After Matthews was sat up, he was at first leaning against my leg, and then I assisted him to his feet and walked him to St. Charles County SWAT officers. As I was turning Matthews over to St. Charles County SWAT, one of them told me that he was a paramedic.
21. The members of my team then resumed our assignment to the skirmish line.

Nicholas Payne 3803
Nicholas Payne

Subscribed and sworn to before me this 10th of May, 2016

Robert E. Fox, Jr.
Notary Public

My Commission Expires: 4-15-2017

